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PATENT APPLICATION

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

Takao DAICHO

Group Art Unit: 1651

Application No.: 09/828,798

Examiner: P. Patten

Filed: April 10, 2001

Docket No.: 109146

For: HEALTH FOOD PRODUCTS

RESPONSE TO ELECTION OF SPECIES REQUIREMENT

Director of the U.S. Patent and Trademark Office
Washington, D.C. 20231

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TECH CENTER 1600/2900

Sir:

In response to the Election of Species Requirement dated December 18, 2001, Applicants hereby provisionally elect ginseng, which is within the scope of at least claim 5. This election is made with traverse.

In further response to the Election of Species Requirement, Applicants respectfully assert that at least claims 1-6 read on the elected species. Currently, it is believed that claims 1 and 5 are generic.

It is respectfully submitted that the subject matter of all Species is sufficiently related that a thorough search for the subject matter of any one Species would necessarily encompass a search for the subject matter of the remaining Species. Thus, it is respectfully submitted that the search and examination of the entire application could be performed without serious burden. MPEP §803 states that "[i]f the search and examination of an entire application can be made without serious burden, the Examiner must examine it on the merits, even though it includes claims to distinct or independent invention." (emphasis added). It is respectfully submitted that this policy

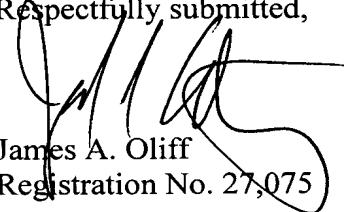
should apply in the present application in order to avoid unnecessary delay and expense to Applicant and duplicative examination by the Patent Office.

Applicants further understand, however, that upon search, examination and allowance of the elected species, search and examination will continue as to the non-elected species within the scope of the generic claims.

The Examiner is respectfully requested to reconsider and withdraw the Election of Species Requirement and to examine all the Species in this application.

Should the Examiner have any questions regarding this response or the application in general, he is invited to contact Applicant's undersigned attorney at the telephone number listed below.

Respectfully submitted,


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JAO/SXT:amw

Date: January 18, 2002

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